

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ISMAEL ARREOLA and ISRAEL ARREOLA
Each Individually and on Behalf of All
Others Similarly Situated

PLAINTIFFS

vs.

No. 9:23-cv-50-MJT

SOUTHERN INDUSTRIAL CONTRACTORS,
LLC, and SAMUEL ESTIS

DEFENDANTS

PLAINTIFFS' SECOND MOTION FOR EXTENSION
OF TIME FOR SERVICE OF PROCESS

Plaintiffs Ismael Arreola and Israel Arreola ("Plaintiffs"), each individually and on behalf of all others similarly situated, by and through their undersigned counsel, for their Motion for Extension of Time for Service of Process and for Alternative Service ("Motion"), state and allege as follows:

1. Plaintiffs make this request in good faith; this Motion is made for good cause and not for the purpose of delay.
2. On March 14, 2023, Plaintiffs filed their Original Complaint against Defendants Southern Industrial Contractors LLC and Samuel Estis.
3. Plaintiffs' original deadline to serve Defendants was June 12, 2023.
4. On June 9, 2023, Plaintiffs filed a Motion for Extension of Time for Service of Process, seeking a 90-day extension to serve process on Defendants. ECF No. 3.
5. On June 13, 2023, this Court granted in part Plaintiffs' Motion for Extension of Time for Service of Process and extended the deadline to serve Defendants until July 27, 2023. ECF No. 4.

6. Plaintiffs engaged a process server on or around March 17, 2023, but as discussed in Plaintiffs' June 9, 2023, Motion for Extension of Time for Service of Process, Plaintiffs' efforts to serve Defendants through a process server have continued to be unsuccessful. ECF No. 3.

7. On May 16, 2023, an attempt at service was made on Defendants. The returns of service stated that service was unsuccessful, and that Defendants had moved to 1224 North Casey Key, Osprey, Florida 34229. Returns of Service attached as Exhibit 1.

8. In early June, a process server attempted to serve Defendants at this new address. On June 10, the process server spoke with an individual who identified themselves as the gardener at this location. According to the process server, this individual confirmed occupancy. Return of Service attached as Exhibit 2. The process server could see another individual who refused to answer the door. *Id.*

9. On June 13, the process server spoke to a different individual at this address who identified themselves as the resident but told the process server that service was not permitted. *See* Exhibit 2.

10. The process server has tried multiple different addresses, but service still remains unsuccessful.

11. The Sarasota County Sheriff's office had been engaged to serve Defendants at this Florida address, but to Plaintiffs' counsel's knowledge, service remains unsuccessful.

12. Under Federal Rule of Civil Procedure 4(e)(1), an individual within a judicial district of the United States may be served by "following state law for serving a summons

in action brought in courts of general jurisdiction in the state where the district court is located or where service is made”

13. Under Federal Rule of Civil Procedure 4(h)(1)(A), a corporation, partnership, or association may be served “in a judicial district of the United States . . . in the manner prescribed by Rule 4(e)(1) for serving an individual”

14. Since personal service has been ineffective thus far, Plaintiffs are currently exploring other methods of service authorized under Texas and Florida state law.

15. Plaintiffs believe that with additional time they will be able to successfully serve Defendants, either via personal service or with state law authorized statutory attempts of service. Plaintiffs are also continuing to attempt personal service via a process server.

16. For the good cause shown, Plaintiffs seek a 45-day extension to serve process on Defendants.

17. Defendants will not be harmed or prejudiced if this Court grants the relief requested herein.

WHEREFORE, premises considered, Plaintiffs respectfully request that this Court enter an Order allowing them an additional 45 days, up to and including September 11, 2023, in which to serve the Summons and Original Complaint on Defendants, and for any other relief that the Court deems just and proper.

Respectfully submitted,

**ISMAEL ARREOLA and ISRAEL
ARREOLA, Each Individually and on
Behalf of All Others Similarly
Situating, PLAINTIFFS**

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